

BIGFORK LAND USE ADVISORY COMMITTEE
Approved Minutes, as corrected, for February 27, 2020
4:00 PM Bethany Lutheran Church – Downstairs Meeting Room

Chairwoman Susan Johnson called the meeting to order at 4:00 p.m.

Present: Committee member attendees: Susan Johnson, Chany Ockert, Richard Michaud, Shelley Gonzales and Lou McGuire; absent was Jerry Sorensen. Public: Three members; Flathead Planning and Zoning: Rachel Ezell.

The agenda was approved (m/s, C. Ockert/L. McGuire), unanimous.

Minutes of the December 19, 2019 meeting were approved (m/s, C. Ockert/ S. Gonzales), unanimous.

Administrator's Report and Announcements:

Sign-in sheet passed around. Approved minutes and documents are posted on the County website: flathead.mt.gov/planning_zoning. Click on [meeting information](#). Gonzales presented the status of most recent applications: FZC 19-20 - S. Lobo, approved by the Planning Board, 30-day public comment period to end on March 2nd. Final resolution has not been scheduled.

Public Comment:

None

Application:

FZC-20-02: A zone change request from JJN Holdings, LLC for property in the Bigfork Zoning District. The proposal would change the zoning on property located at 257 MT Highway 83, Bigfork, MT from SAG-5 (Suburban Agricultural) to I-1 (Light Industrial). The total acreage involved in the request is 5.884 acres.

Staff Report:

Rachel Ezell presented the report. The applicant wants to build a company shop and office. Three agencies replied, none expressed concerns with the zone change. SAG-5 and I1 zones are very different. Refer to page 8 and the map which shows the application complies with the Bigfork Neighborhood Plan. The Neighborhood Plan map designates the area as agricultural.

Q. McGuire: When was the adjacent property (to the east) zoned I-1? A. Ezell: In early to mid-2000, and the Land Use Map in the Plan shows that property as I-1.

Q. Ockert: Could I-1 zoning create multiple lots on the subject property? A.

Ezell: Yes, I-1 zoning could create 26 additional lots on the 5.84-acre property.

Q. Ockert: Is that including or excluding infrastructure? A. Ezell: Including infrastructure.

Q. Ockert: Did you do any traffic analysis? A. Ezell: For I-1 best guess is 51.8 average daily trips per acre. For the five acres, average daily trips potentially could be 304 trips. However, the applicant states that there will be just two employees on the property.

Q. Ockert: The staff reports states that the current dwelling on the property could be converted to a commercial caretaker facility. Is that typical? A. Ezell: You can ask the applicant.

Q. Ockert: If they do not convert the structure to a caretaker facility, do they have to take the structure down? A. Ezell: They do not have to take it down, it could be used as an office. They could do a boundary line adjustment to use it as a caretaker facility or use as a residence and it would be grandfathered.

Q. McGuire: They could use it and rent it out as a residence? A. Ezell: Yes, it was a residence and would be grandfathered and they could rent it out as a long-term rental (over 30 days).

Q. Michaud: Will the applicant use the private drive to go to the residence and will the residence that is in the back also use the same road? A. Ezell: That is what they indicate. Montana Department of Transportation (MDT) has been contacted but has not yet responded, but they generally ask for an updated approach permit. MDT prefers shared approaches versus multiple accesses onto a highway.

Q. Ockert: On spot zoning, all three conditions must be met? A. Ezell: Yes.

Applicant Report:

Ryan Nelson presented his application. He bought the property for better year-round access for his business and intends to build a metal building for office and storage of electrical business supplies. He and his wife are the only employees. The existing house on the property could be used by family or as a rental. The driveway to his property and to the residence behind him is on his property. They will maintain the driveway. After the zone change, they would do a lot line adjustment to put the house on its own residential piece to be separate from the I-1 zoning on the front of the parcel. Requesting I-1 zone as the adjacent business (Bigfork Rentals) property is zoned I-1.

Q. McGuire: Clarify the lot line adjustment and what would the residence be zoned? A. Nelson: I believe it would be zoned R-1 or SAG-5.

Rachell Ezell stated that with a boundary line adjustment you would split zone the (5.84 acre) property and then re-zone the residential portion from I-1.

Nelson stated that the county told him if he wanted a lot line adjustment and then re-zone the residential portion, the entire 5+ acre parcel would first need to be rezoned and he would have to pay the \$1,100 zone change fee twice.

Q. McGuire. So, what would be the size of the parcel the house would be on? A. Nelson: I haven't decided that yet, but probably an acre.

Q. McGuire: Wouldn't that reduce the proposed I-1 property to less than 5 acres which is the minimum lot requirement? (Staff did not find the answer).

Q. Ockert: Have you purchased the property? A. Nelson: Yes.

Q. Ockert: Did you look at B-3 zoning instead of I-1? Yes, the adjacent property is I-1, but there is also B-3 in the area. A. Nelson: The county told him since the adjacent property was I-1 he should apply for the I-1 zoning

Q. Ockert: When we do a zone change, we cannot put conditions on it and if you ever sold the property the I-1 zone would transfer to the new owner and they could develop 26 lots on the parcel. With a B-3 zone you can still accomplish what you want to do without the potential for high density development. A. Nelson: Since the adjacent property is I-1, I decided I would rather be zoned I-1.

Q. Gonzales: Would you build the shop/office in front of the residence and would you put up fencing like the Martel property? A. Nelson: Yes

Q. Ockert: The land in front is currently being farmed, is that under a lease agreement with the prior owner? A. Nelson: I am not sure. The property is being mowed to keep the weeds down.

Discussion between Committee and Staff: Q. McGuire: I still believe I-1 must be a 5-acre parcel but I cannot find that anywhere. A. Ezell: B-1 and B-3 are minimum 5-acre parcels, but I-1 is not. Q. Ockert: I am curious about the difference between B-3 and I-1 and future possible uses of the property. A. Ezell: The county tries to help the applicant achieve their desired goals. B-3 was not out of the question, but I-1 was adjacent zoning and met the applicant's needs.

Q. Ockert: Would you consider having an accessory dwelling? A. Nelson: I intend to leave it as it is.

Q. Ockert: As there is a need for affordable housing, I ask if an accessory dwelling is possible? A. Nelson: There is room for another building if someone wanted to do that.

Discussion between Committee and Staff: Q. McGuire: Wouldn't it be more realistic to rezone the property that doesn't include the house to I-1 and leave the

house zoned as it is? Then a buildout analysis could be done based on the two different zonings. A. Ezell: A boundary line adjustment assumes you own the adjacent property. It is my knowledge that Nelson does not own the adjacent property. Nelson stated he does not own the adjacent property. He restated how the county advised him on the two-step zoning and how he would need to pay two \$1,100 application fees. He was told he could not do a lot line adjustment in SAG-5.

Public Agency Comments:

None

Public Comment:

None

Staff Reply:

None

Applicant Reply:

None

Michaud asked the applicant if the storage building was for his personal business and not for public use. Nelson replied in the affirmative.

Committee Discussion:

McGuire stated that we are faced with zoning creep just because the adjacent property is zoned I-1, and this is encroachment is contrary to the Bigfork Neighborhood Plan. Johnson agreed stating that this issue has come up in the past but is not supported by other county boards. McGuire asked should we give up on the Neighborhood Plan or re-write it? Gonzales stated that the Plan would not be re-written as it is a non-regulatory document and community financial support for that re-write is highly unlikely. Michaud pointed out the adjacent properties are less than 5 acres and this parcel could become multiple small lots. Johnson stated that if there were multiple business properties there would be an access issue. McGuire stated that while the applicant does not intend to create 7,500 square foot lots, the next property owner could do just that and we would have no input on that process; what are we creating here? McGuire further stated that this is a complicated request and it does not get the applicant where he wants to be. Ockert was concerned about the proposed I-1 zoning adjacent to agricultural land to the west and the precedent it would set. She supports B-3 zoning which is prevalent in

the nearby area and would result in less density and potential for sprawl and allow the applicant to accomplish his goals while also protecting the surrounding agricultural properties. Michaud agreed. McGuire read the definition of I-1 Light Industrial from the county zoning regulations pointing out that a residence in that zoning designation is not a permitted use and B-3 is a better zone for the intended use. Gonzales stated that given what the applicant has heard from BLUAC he could go back to Planning and Zoning and amend his application before the request goes to the Planning Board which might save him some money and heartbreak.

Findings of Fact:

Gonzales motioned to approve the Findings of Fact. The motion died for a lack of a second. McGuire suggested we discuss each Findings of Fact and amend accordingly. The committee addressed each Findings of Fact as follows:

#1. Amend as follows: The proposed zoning map amendment **does not** (added) generally comply with the Bigfork Neighborhood Plan. The remained or the sentence is deleted. m/s, (McGuire/Michaud), unanimous.

#2. Adopt, m/s, (McGuire/Ockert), unanimous.

#3. Adopt, m/s, (McGuire/Ockert), unanimous

#4. Adopt, m/s, (McGuire/Ockert), unanimous.

#5. Adopt, m/s, (McGuire/Ockert), unanimous.

#6. Adopt m/s, (Ockert/Johnson), unanimous.

#7. Adopt, m/s, (McGuire/Johnson), unanimous.

#8. Adopt, m/s, (McGuire/Johnson), unanimous.

#9. Amend as follows: The proposed zoning map amendment would **not** (added) be compatible with current urban growth in the Bigfork area because, **although** (deleted) the proposed I-1 zoning is not described as an appropriate zoning implementation for the “Agricultural” designation in the Bigfork Neighborhood Plan. The remainder of the sentence is deleted. m/s, (McGuire/Ockert), unanimous.

#10. Adopt, m/s, (McGuire/Gonzales), unanimous.

#11. Amend as follows: The proposed zoning map amendment **does not** (added) appear suitable for the character of the district **and** (deleted) **, although it** (added) does not appear to constitute spot zoning because, although the property consists of one tract owned by one property owner, the proposed zone change would expand and existing light industrial zoning district and allow for similar uses existing on adjacent property. m/s, (McGuire/Ockert), unanimous.

#12. Amend as follows: This proposed zoning map amendment **does not** (added) appear to conserve the value of buildings and encourage the most appropriate use of land in this location. The remained of the sentence is deleted. m/s, (McGuire/Michaud), unanimous. Ockert suggested adding a sentence to the Finding of Fact stating B-3 zoning would be more appropriate for this property. The committee felt this statement would be most appropriate in Committee Discussion and Vote.

#13. Adopt, m/s, (McGuire/Ockert), unanimous.

McGuire moved to adopt Findings of Fact 2, 3, 4, 5, 6, 7, 8, 10 and 13, as presented, and adopt Findings of Fact 1, 9, 11 and 12, as amended. Michaud seconded the motion, motion passed unanimously.

Committee Discussion and Vote:

Gonzales stated that B-3 zoning is more appropriate for this property. Ockert agreed. Ockert moved to forward to the Planning Board a recommendation to deny FZC-20-02. The motion was seconded by McGuire. The motion passed unanimously

FZC20-02 will be reviewed by the Planning Board on Wednesday, March 11, 2020, at 6 p.m. in the second-floor conference room of the South Campus Building located at 40 11th Street West, Kalispell.

Old Business:

None

New Business:

None

Adjourn:

Meeting was adjourned at 5:05 pm.

Respectfully submitted by:

Shelley Gonzales, member and acting recording secretary